IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL URISDICTION.

COMPANY PETITION No.1170 of 2002.

Asian Paints factory Employees
Provident Fund Petitioner.

Vs.

Giltedge Management Services Ltd. Respondent.

WITH

COMPANY PETITION No.1171 of 2002.

Asian Paints Management Cadres
Superannuation Provident Fund Petitioner.

Vs.

Giltedge Management Services Ltd. Respondent.

WITH

COMPANY PETITION No.1172 of 2002.

Asian P.P.G. Industries Ltd. Petitioner.

Vs.

Giltedge Management Services Ltd. Respondent.

WITH

COMPANY PETITION No.1173 of 2002.

Asian Paints Office Provident Fund Petitioner.

Vs.

Giltedge Management Services Ltd. Respondent.

WITH

COMPANY PETITION No.1174 of 2002.

Asian Paints Factory Employees
Gratuity Fund Petitioner.

Vs.

Giltedge Management Services Ltd. Respondent.

Mr. Kapadia i/b Rajani & Asso. for the Petitioner in all the petitions.

None for the Respondent in all the petitions.

CORAM: V.C.DAGA,J.

DATED: 07.02.2007.

P.C.:-

1. Heard the learned counsel appearing for the petitioner. None appears for the respondent though served. No reply has been filed opposing the petition. Perused petitions.

2. The learned Single Judge of this Court vide the order dated 21.11.2003 has sketched the factual aspect as under:

> "On the facts and circumstances narrated above, there is a debt due and payable by the respondent tothe petitioner. The respondent acknowledged it in its letter dated 16th August, 2002. The respondent has absolutely no valid or tenable defence to the claim of the petitioner, which is an Employees Provident Fund, for the outstandings which are due and payable by it to the petitioner.

The claim made by the respondent against Home Trade Ltd or for that matter, the Award in its favour cannot possibly be a defence to the claim of the Petitioner against the respondent."

3. In view of the aforesaid backdrop, the learned Single Judge was pleased to admit the petition. The petition was advertised in "Free Press Journal", "Nav Shakti" and "Maharashtra Government Gazette" at the cost of the petitioner. At the request of the learned counsel appearing on behalf of the respondent time to file appeal for a period of four weeks was granted.

4. The learned counsel appearing on behalf of the petitioner submits that no appeal has been filed by the respondent company. The respondent is absent inspite of service. Under these circumstances, all the allegations made in the petition are remained uncontroverted. The order passed by this Court dated 21st November, 2003 and the factual aspect recorded therein together with the prima facie opinion of the Court stand unrebutted.

5. In the above view of the matter, the assertion made by the petitioner, supported by the

documents on record, have remained uncontroverted and can virtually be said to have been admitted by the respondent by remaining absent. No reply has been filed opposing this petition.

6. In the above view of the matter, legal presumption against the respondent company arises that it has failed to discharge its liability. The said legal presumption remained unrebutted. In this situation, this Court has no option other than to make the Company Petition Nos. 1170/02, 1171/02, 1172/02, 1173/02, and 1174/02 absolute in terms of prayer clauses (a) and (b) in each petitions with no order as to costs.

(**V.C. DAGA,J.**)